

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

STATE OF DELAWARE,	:	
	:	Case No. 0407018106
v.	:	
	:	
DWIGHT W. PERKINS,	:	
	:	
Defendant.	:	

Submitted: May 24, 2006

Decided: May 31, 2006

ORDER

Upon Defendant's Motion for Transcripts.
Denied.

Robert J. O'Neill, Jr., Esquire, Department of Justice, Dover, Delaware; attorneys for the State.

Dwight W. Perkins, *pro se*

WITHAM, R.J.

Dwight W. Perkins (hereinafter the “Defendant”) filed the instant motion for transcripts at the State’s expense. He has also filed a companion motion to proceed *in forma pauperis*. While his motion to proceed *in forma pauperis* is somewhat deficient, this Court will consider it and grant the relief. For the reasons that follow, the Defendant’s motion for transcripts is *denied*.

Factual & Procedural Background

On January 25, 2006, the Defendant was declared a habitual offender pursuant to 11 Del. C. § 4214(a) and pled guilty to Possession of a Deadly Weapon by a Person Prohibited resulting in a sentence of 12 years at Level 5; Possession of a Firearm by a Person Prohibited resulting in a sentence of 3 years at Level 5; and Robbery Second Degree resulting in a sentence of 1 year at Level 5, with declining levels of probation thereafter.

On April 18, 2006, subsequent to sentencing, the Defendant sought to withdraw his guilty plea. On April 25, 2006, the Court denied his motion pursuant to Superior Court Criminal Rule 32(d) as untimely. The Defendant noticed his appeal to the Delaware Supreme Court on February 22, 2006, prior to seeking to withdraw his guilty plea. The present motion seeks a transcript of the “November 2, 2005 hearing for oral motion for dismissal of counsel and December 19, 2005 motion hearing (office conference proceedings)” without delineating his rationale nor the basis for the request. He simply says that these transcripts are essential for the defense of the appeal. On May 26, 2006, Defendant filed a second motion for transcripts seeking the same transcripts. The Court assumes that he is an indigent, incarcerated *pro se* defendant who requires these transcripts to proceed with his post-conviction remedies.¹

¹*State v. Bishop*, 2006 Del. Super. LEXIS 207.

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Discussion

“There is no blanket constitutional right to a free transcript for the purpose of preparing a post-trial motion.”² The Constitution requires that materials such as transcripts are provided only after judicial certification that they are necessary to decide non-frivolous issues in a pending case.³ The decisions of this Court make clear that “when the defendant offers no factual basis and fails to clearly identify any fundamental rights that were violated, the Court will find the defendant’s claim ‘frivolous’ and deny the motion.”⁴

The Defendant has failed to explain why these transcripts are necessary or articulate any facts that relate to “specific, non-frivolous issues”. Thus, the Defendant is not entitled to the transcripts. Therefore, the Defendant’s motion for transcripts at State’s expense is ***denied***.

IT IS SO ORDERED.

/s/ William L. Witham, Jr.

Resident Judge

WLW/dmh

oc: Prothonotary

xc: Robert J. O’Neill, Jr., Esquire

Mr. Dwight W. Perkins, *pro se*

²*State v. Allen*, 2002 WL31814750 at *1 ((Del. Super.); see e.g. *State v. Quill*, 1999 WL1229313 at *1 (Del. Super.).

³*State v. Johnson*, 1999 WL1568387 at *1 (Del. Super.).

⁴*State v. Boardly*, 1992 WL354176 at *1 (Del. Super.).